

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GENE PAUL WHEATON,

Plaintiff,

No. CIV S-04-1503 DFL DAD P

vs.

C. KING, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

By order filed August 15, 2005, plaintiff's complaint was dismissed and thirty days leave to file an amended complaint was granted. Plaintiff was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and plaintiff has not filed an amended complaint or otherwise responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, plaintiff may file written objections with the court. The document should be captioned "Objections to Magistrate Judge's

Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: September 28, 2005.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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